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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,971	01/30/2002	Hans-Peter Sommer	271MB/50826	4496
23911	7590	04/21/2004	EXAMINER	
CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300			THOMPSON, TIMOTHY J	
			ART UNIT	PAPER NUMBER
			2873	

DATE MAILED: 04/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/058,971

Applicant(s)

SOMMER ET AL.

Examiner

Timothy J Thompson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Hovey(U.S. Patent No. 4,043,637).

Regarding claim 1, Hovey discloses; a transparent synthetic resin material(col 9, lines 25-30, CR-39) and at least one photochromic dye incorporated therein(Col 8, line 48, metal dithizonates), wherein said photochromic synthetic resin object further comprises at least one contrast-increasing agent(col 12, lines 25-50) which absorbs light in the visible wavelength range from 380 nm to 500 nm such that when the at least one photochromic dye is in a lightened state, the photochromic synthetic resin object exhibits an average transmission of from 5% to 30% in the visible wavelength range from 380 nm to 500 nm(fig 3).

Regarding claim 2, Hovey discloses the lightened state of at least one photochromic dye, the photochromic synthetic resin object has an average transmission of at most 20% in the visible light region of 380 nm to 500 nm(fig 3).

Regarding claim 3, Hovey discloses the lightened state of at least one photochromic dye, the photochromic synthetic resin object has an average transmission of at most 10% in the visible light region of 380 nm to 500 nm(fig 3).

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Regarding claim 4, Hovey discloses the contrast-increasing agent comprises a coloring agent selected from the group consisting of pigments and organic dyes(col 12, lines 25-50 and col 3, lines 29-35)).

Regarding claim 5, Hovey discloses the contrast-increasing agent comprises a reflective or an absorbent coating(col12, lines 38-39).

Regarding claim 6, Hovey discloses the contrast increasing agent comprises a coloring agent selected from the group consisting of pigments and organic dyes in combination with a reflective or absorbent coating(col 12, lines 25-50).

Response to Arguments

Applicant's arguments filed 02/03/04 have been fully considered but they are not persuasive. The synthetic resin object exhibits an average transmission of from 5 to 30 percent in the visible range. Average, typically means the transmission taken at each wavelength and then averaged over the entire range, and in the case of Hovey the average transmission over the range of 380 to 500nm of approximately 12 %(table 3).

If the attorney would add language that states that over the range of 380 to 500nm a transmission of at least 5% and less than 30% at each wavelength is achieved or similar wording the examiner would most likely find the claims allowable.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Thompson whose telephone number is (703) 305-0881. If the examiner can not be reached his supervisor, Georgia Epps, can be reached on (703) 308-4883.


T.J.T.

4/16/04